

(2) A brief description of the PFC project, the level of the proposed PFC, the proposed charge effective date, the proposed charge expiration date and the total estimated PFC revenue;

(3) The address and telephone number of the FAA Airports office at which the application may be inspected;

(4) The Administrator's determination on whether the application is substantially complete and any information required to complete the application; and

(5) The due dates for any public comments.

(f) *Public comments.* (1) Interested persons may file comments on the application within 30 days after publication of the Administrator's notice in the FEDERAL REGISTER.

(2) Three copies of these comments shall be submitted to the FAA Airports office identified in the FEDERAL REGISTER notice.

(3) Commenters shall also provide one copy of their comments to the public agency.

(4) Comments from air carriers and foreign air carriers may be in the same form as provided to the public agency under § 158.23.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991]

#### § 158.29 The Administrator's decision.

(a) *Authority to impose a PFC.* (1) An application to impose a PFC will be approved in whole or in part only after a determination that—

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives and criteria set forth in § 158.15;

(iii) If a PFC level above \$3 is being approved, the project meets the criteria set forth in § 158.17;

(iv) The collection process, including any request by the public agency not to require a class of carriers to collect PFC's, is reasonable, not arbitrary, nondiscriminatory, and otherwise in compliance with the law;

(v) The public agency has not been found to be in violation of 49 U.S.C. 47524 and 47526;

(vi) The public agency has not been found to be in violation of 49 U.S.C. 47107(b) governing the use of airport revenue;

(vii) If the public agency has not applied for authority to use PFC revenue, a finding that there are alternative uses of the PFC revenue to ensure that such revenue will be used on approved projects; and

(viii) If applicable, the public agency has submitted a competition plan in accordance with § 158.19.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the projects and alternative uses that may qualify for PFC financing under § 158.15, and (if a PFC level above \$3 is being approved) § 158.17, PFC level, total approved PFC revenue including the amounts approved at \$3 and less, \$4, and/or \$4.50, duration of authority to impose and earliest permissible charge effective date.

(b) *Authority to use PFC revenue on an approved project.* (1) An application for authority to use PFC revenue will be approved in whole or in part only after a determination that—

(i) The amount and duration of the PFC will not result in revenue that exceeds amounts necessary to finance the project;

(ii) The project will achieve the objectives and criteria set forth in § 158.15;

(iii) If a PFC level above \$3 is being approved, the project meets the criteria set forth in § 158.17; and

(iv) All applicable requirements pertaining to the ALP for the airport, airspace studies for the project, and the National Environmental Policy Act of 1969 (NEPA), have been satisfied.

(2) The Administrator notifies the public agency in writing of the decision on the application. The notification will list the approved projects, PFC level, total approved PFC revenue, total approved for collection, including the amounts approved at \$3 and less, \$4, and/or \$4.50, and any limit on the duration of authority to impose a PFC as prescribed under § 158.33.

(3) Approval to use PFC revenue to finance a project shall be construed as approval of that project.

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(c) *Disapproval of application.* (1) If an application is disapproved, the Administrator notifies the public agency in writing of the decision and the reasons for the disapproval.

(2) A public agency reapplying for approval to impose or use a PFC shall comply with §§ 158.23 and 158.25 of this part.

(d) The Administrator publishes a monthly notice of PFC approvals and disapprovals in the FEDERAL REGISTER.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 30867, July 8, 1991; Amdt. 158–2, 65 FR 34542, May 30, 2000]

### § 158.31 Duration of authority to impose a PFC after project implementation.

A public agency that has begun implementation of a project approved under § 158.29 is authorized to impose a PFC until—

(a) The charge expiration date is reached;

(b) The total PFC revenue collected plus interest thereon will equal the allowable cost of the approved project;

(c) The authority to collect the PFC is terminated by the Administrator under subpart E of this part; or

(d) The public agency is determined by the Administrator to be in violation of 49 U.S.C. 47524 and 47526, and the authority to collect the PFC is terminated under that statute's implementing regulations under this title.

[Doc. No. 26385, 56 FR 24278, May 29, 1991, as amended by Amdt. 158–2, 65 FR 34542, May 30, 2000]

### § 158.33 Duration of authority to impose a PFC before project implementation.

(a) A public agency shall not impose a PFC beyond the lesser of the following—

(1) 2 years after approval to use PFC revenue on an approved project if the project has not been implemented, or

(2) 5 years after the charge effective date if an approved project is not implemented.

(b) If, in the Administrator's judgment, the public agency has not made sufficient progress toward implementation of an approved project within the times specified in paragraph (a) of this section, the Administrator begins ter-

mination proceedings under subpart E of this part.

(c) The authority to impose a PFC following approval shall automatically expire without further action by the Administrator on the following dates:

(1) 3 years after the charge effective date unless—

(i) The public agency has filed an application for approval to use PFC revenue for an eligible project that is pending before the FAA;

(ii) An application to use PFC revenue has been approved; or

(iii) A request for extension (not to exceed 2 years) to submit an application for project approval, under § 158.35, has been granted; or

(2) 5 years after the charge effective date unless the public agency has obtained project approval.

(d) If the authority to impose a PFC expires under paragraph (c) of this section, the public agency must provide the FAA with a list of the air carriers and foreign air carriers operating at the airport and all other collecting carriers that have remitted PFC revenue to the public agency in the preceding 12 months. The FAA notifies each of the listed carriers to terminate PFC collection no later than 30 days after the date of notification by the FAA.

(e) Restriction on reauthorization to impose a PFC. Whenever the authority to impose a PFC has expired or been terminated under this section, the Administrator will not grant new approval to impose a PFC in advance of implementation of an approved project.

[Doc. No. 26385, 56 FR 24278, May 29, 1991; 56 FR 37127, Aug. 2, 1991]

### § 158.35 Extension of time to submit application to use PFC revenue.

(a) A public agency may request an extension of time to submit an application to use PFC revenue after approval of an application to impose PFC's. At least 30 days prior to submitting such request, the public agency shall publish notice of its intention to request an extension in a local newspaper of general circulation and shall request comments. The notice shall include progress on the project, a revised schedule for obtaining project approval and reasons for the delay in submitting the application.